

**STATE OF LOUISIANA  
DEPARTMENT OF CIVIL SERVICE  
BATON ROUGE, LA.**

January 9, 2004

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**STATE PERSONNEL MANUAL  
TRANSMITTAL SHEET  
NO. 403**

**To: HEADS OF STATE AGENCIES AND PERSONNEL OFFICERS**

**Subject:** Adoption of Chapter 21 Rules, Amendments to Rules 6.28 and 11.28, and Repeal of Rules 6.18, 6.19, 6.20, 6.21, 6.22, 6.23, 6.24, 6.25, 6.26, 6.27, 11.3.1, and 11.29

**Issue Date:** January 9, 2004

At its regular business meeting on October 8, 2003, the Civil Service Commission approved adoption of Chapter 21 Rules, proposed amendments to Rules 6.28 and 11.28, and proposed repeal of Rules 6.18, 6.19, 6.20, 6.21, 6.22, 6.23, 6.24, 6.25, 6.26, 6.27, 11.3.1, and 11.29. These new Rules, amendments, and repeal of Rules, were approved by the Governor to be **effective December 31, 2003**. Explanations for the new Rules and changes appear in General Circular No. 1541.

**Please note that, because Chapter 21 is new and was adopted in its entirety, there will not be any asterisks, which are used to indicate changes to previously existing Rules.**

If you have any questions you may contact Program Assistance at 225-342-8274.

Please make the following changes in your Civil Service Rules:

<u>REMOVE</u>		<u>INSERT</u>	
<u>Page</u>	<u>T/S</u>	<u>Page</u>	<u>T/S</u>
20.26.6	395	20.26.6	395
20.26.7	395	20.26.7	403
20.26.8	395	20.26.8	403
20.26.9	395	20.26.9	403
20.26.10	395		
20.26.11	395		
20.26.12	395		
20.26.13	395		
20.26.14	395		
20.55	195	20.55	403
20.56	370	20.56	370
20.64.1	384	20.64.1	384
20.64.2	384	20.64.2	403
20.64.3	384	20.64.3	403
20.64.4	384	20.64.4	403
20.64.5384			
20.64.6384			
		21.1	403
		21.2	403
		21.3	403
		21.4	403
		21.5	403

Sincerely,

s/Allen H. Reynolds  
Director

(g) Pay for Employees at Range Maximum

Subject to the provisions of Rule 6.29, in order to reward those employees who have achieved at least 12 years of continuous State service and have reached the maximum of their pay range or the maximum plus maximum base supplement, have continued to exhibit satisfactory performance for a period of at least three years after reaching the maximum or maximum plus maximum base supplement, and who have been at the same maximum or maximum plus maximum base supplement pay rate for a period of three years, an appointing authority may, at his own discretion, grant a lump sum payment of up to 4% of the employee's base salary. Employees may not receive such an increase more frequently than every three years. Employees who are red circled shall not be eligible for a lump sum payment. Eligibilities gained but not received at the time of initial eligibility may be given prospectively at any time within three years of the initial eligibility.

6.16.1 Rewards and Recognition.

Subject to the provisions of Rule 6.29, an appointing authority may, at his discretion, implement a program of rewards and recognition for individual employees or for employee groups for significant achievement. Such rewards may be either monetary or non-monetary. If monetary, such rewards shall not exceed a total of 9% of the employees base salary within a fiscal year. Monetary rewards shall not be a part of the employee's base pay, but rather shall be a lump sum reward. Such reward and recognition programs shall be implemented in accordance with written policies and procedures established by each department. Such policies must receive advance approval from the Civil Service Commission and shall be posted in a manner that assures their availability to all employees. Such policies shall also include the public posting of all reward recipients.

6.16.2 Optional Pay Adjustments

Subject to the provisions of Rule 6.29, an appointing authority may, at his own discretion, grant individual pay adjustments to permanent employees to provide for the retention of an employee whose loss would be detrimental to the State service or to adjust pay differentials between comparable employees or to compensate employees for performing additional duties or to recruit employees into positions for which recruiting is difficult. Such increases shall not exceed 10% in a July 1 to June 30 period for an individual employee and shall not duplicate payment received pursuant to other pay rules. Such increases may be made as either a lump sum payment or a permanent addition to the employee's base salary. Such optional pay adjustments shall be implemented in accordance with written policies and procedures established by each department. Such policies must receive advance approval from the Civil Service Commission and shall be posted in a manner that assures their availability to all employees. Such policies shall also include a public posting of all recipients.

## 6.16.3 Gainsharing and Exceptional Performance

This rule establishes an incentive program designed to encourage increased efficiency and better performance in governmental operations. Subject to the provisions of Rule 6.29, and after obtaining a reward of monies from the incentive fund as established in the Louisiana Government Performance and Accountability Act, an appointing authority may implement an exceptional performance or gainsharing incentive reward program which provides for supplemental compensation to identify classified employees or classified employee groups responsible for efficiencies or exceptional performance. Where the agency is not covered by the Louisiana Government Performance and Accountability Act, the appointing authority shall obtain certification of efficiencies or exceptional performance as required by the Director of the Department of Civil Service. Employees must have been employed by the agency, program, or activity during the period when the efficiencies or the exceptional performance occurred and at the time the reward is distributed. Monetary rewards shall not be part of the classified employee's base pay, but rather shall be a lump sum reward not to exceed 20% of their annual base salary. Such reward shall not be considered in the determination of retirement benefits. Each appointing authority's supplemental compensation plan must be approved by the Civil Service Commission prior to distribution of the monies. The plans shall be posted in a manner that assures their availability to all employees. Such public posting shall identify the reward recipients and the amount received by each recipient.

## 6.17 Pay on Entering the Classified Service Under the Provisions of Rule 8.27.

An employee who enters the classified service under the provisions of Rule 8.27 because his position has been declared to be in the classified service shall have his pay established as follows:

- (a) If the employee's rate of pay falls within the range, or within the range plus the authorized base supplement for the position allocated, his rate of pay shall remain the same.
- (b) If the employee's current rate of pay is below the range minimum, it shall be brought to the range minimum or interim minimum if such is in effect at the time.
- (c) If the employee's current rate of pay is above the range maximum or above the range maximum plus the base supplement authorized for the position allocated, Rule 6.15 shall apply.

6.18 Repealed and Re-enacted in Rules 21.3 and 21.7, effective December 31, 2003. \*\*\*

6.19 Repealed and Re-enacted in Rules 21.4 and 21.7, effective December 31, 2003. \*\*\*

- 6.20 Repealed and Re-enacted in Rules 21.7 through 21.9, effective December 31, 2003. \*\*\*
- 6.21 Repealed and Re-enacted in Rules 21.7 through 21.9, effective December 31, 2003. \*\*\*
- 6.22 Repealed and Re-enacted in Rules 21.7 through 21.9, effective December 31, 2003. \*\*\*
- 6.23 Repealed and Re-enacted in Rules 21.7 through 21.9, effective December 31, 2003. \*\*\*
- 6.24 Repealed and Re-enacted in Rules 21.3, effective December 31, 2003. \*\*\*
- 6.25 Repealed and Re-enacted in Rules 21.10 and 21.11, effective December 31, 2003. \*\*\*
- 6.26 Repealed and Re-enacted in Rule 21.2, effective December 31, 2003. \*\*\*
- 6.27 Repealed and Re-enacted in Rules 21.7 and 21.12, effective December 31, 2003. \*\*\*
- 6.28 Compensation for On-Call Duty/Shift Work

Subject to the provisions of Rule 6.29,

- (a) The Director may authorize compensation for on-call/shift work through policy directives which establish guidelines for compensation for employees performing these types of work. These guidelines will establish the maximum authorized amounts which may be utilized. The Commission may authorize amounts at levels higher than established by the Director.
- (b) On-call compensation is for hours worked in excess of regularly scheduled hours of duty, when the worker is available for call back to his/her duty station, work-ready, within a specified period of time, at the direction of his/her appointing authority. On-call compensation is in addition to the employee's regular pay and is not to be included in terminal leave payments allowed under other Sections of the Rules. On-call compensation shall not be granted to an employee for his/her regularly scheduled hours of duty. Further, when an employee is called back he/she shall be considered in duty status and eligible for overtime compensation, according to Chapter 21 of these Rules. \*\*\*
- (c) Shift differential is an additional pay allowance for employees who work non-standard hours.

6.29 Corrective Pay Actions

- (a) The discretion granted by this Chapter to an appointing authority is subject to revocation by the Director when he determines that such discretion has been abused.
- (b) An employee's pay is subject to reduction when, after hearing before the Commission or its designee, it is determined that the employee has benefited from increased pay as a result of either a violation of these Rules, or an abuse of the discretion granted in these Rules.

6.30 In order to avoid excessive administrative costs, an appointing authority may adjust an employee's salary to the monthly range maximum or highest rate within the base supplement authorized for a position when any personnel transaction results in a salary increase which is within \$20 of that monthly range maximum or highest rate within the base supplement.

## CHAPTER 11

## HOURS OF WORK, ANNUAL, SICK AND OTHER FORMS OF LEAVE

## 11.1 Full-Time Employees.

- (a) Subject to the provisions of subsections (b) and (c) hereof, the work week for each full-time employee in the classified service shall be forty (40) hours.
- (b) An appointing authority, with the approval of the Commission, may specify a work week exceeding forty (40) hours for employees in specific classes of positions within his agency, or for employees in specific divisions or activities within his agency.
- (c) Subject to the provisions of subsections (a) and (b) of this Rule, the appropriate appointing authority shall designate and record the number of hours and days which will constitute the regular work week of each full-time employee.
- (d) Each specification prepared under the provisions of subsection (b) of this Rule shall be filed with the Director.

## 11.2 Part-Time Employees.

- (a) When the services of an employee are not needed on a full-time basis his appointing authority may establish a regular tour of duty for him on a part-time basis.
- (b) The appropriate appointing authority shall designate and record the number of hours and days which will constitute the regular work week of each part-time employee.

## 11.3 Intermittent Workers.

When the services of an employee are not needed on a regularly scheduled basis, the appointing authority may appoint an employee to serve on an intermittent hourly, daily, weekly or monthly basis.

## 11.3.1 Repealed and Re-enacted in Rule 21.1, effective December 31, 2003.

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## 11.4 Repealed and re-enacted effective July 1, 1973 as Rules 1.3.1 and 1.39.1.

## 11.5 Earning of Annual and Sick Leave.

- (a) Annual and sick leave shall be earned by each full-time and each part-time employee who has a regular tour of duty, except that no employee shall earn annual or sick leave while serving on restricted appointment or while using leave from an agency leave pool as defined in Rule 11.34.
- (b) The earning of such leave shall be based on the equivalent of years of full-time State service and shall be creditable at the end of each calendar month or at the end of each regular pay period in accordance with the following general schedule
  - 1. Less than three years of service, at the rate of .0461 hour of annual leave and .0461 hour of sick leave for each hour of regular duty.
  - 2. Three years but less than five years of service, at the rate of .0576 hour of annual leave and .0576 hour of sick leave for each hour of regular duty.
  - 3. Five years but less than ten years of service, at the rate of .0692 hour of annual leave and .0692 hour of sick leave for each hour of regular duty.
  - 4. Ten years but less than fifteen years of service, at the rate of .0807 hour of annual leave and .0807 hour of sick leave for each hour of regular duty.
  - 5. Fifteen or more years of service, at the rate of .0923 hour of annual leave and .0923 hour of sick leave for each hour of regular duty.
- (c) Repealed, effective July 1, 1973.
- (d) No employee shall be credited with annual or sick leave
  - 1. For any overtime hour.
  - 2. For any hour of leave without pay.
  - 3. While he is on leave with or without pay, until such time as he returns to active working duty, except where inability to return to duty is caused by illness or incapacity as defined by Rule 1.39.1.
  - 4. For any hour in on-call status outside his regular duty hours as defined in Rules 11.1 and 11.2.
  - 5. For any hour of travel or other activity outside his regular duty hours as defined in Rules 11.1 and 11.2.
  - 6. For any hour of a holiday or other non-work day which occurs while he is on leave without pay.



1. When Military Leave with Pay as provided in Rule 11.26(a) has been exhausted, an employee whose military base pay is less than his state base pay shall be paid the difference between his military base pay and his state base pay in his regular position. Such payment shall be made on the same frequency and manner as the employee's regular state pay, unless other voluntary arrangements are made. Employees receiving the pay differential shall provide to agency officials any documentation appropriate to ensure the payment amount is calculated correctly. Employees who choose to use their annual leave during their period of military absence shall not be eligible for receipt of the pay differential, unless the leave was used between September 11, 2001, and the date of the adoption of this rule, in which case subparagraph (4) shall apply.
  2. Employees shall continue to accrue sick and annual leave for the entire period of service, beginning the date of the service. Leave shall be accrued on the same basis as though the employee had not been activated. Leave earned shall be credited to the employee upon his return from active duty.
  3. Employees who are on Leave Without Pay shall receive, each calendar year, the full 15-days of Military Leave with Pay provided in Rule 11.26(a)3. The pay differential allowed in 11.26(g)1 shall be suspended until the 15-day Military Leave with Pay period is exhausted and the employee returns to Leave Without Pay status.
  4. If paid leave has been used during any portion of service from September 11, 2001, through the date of adoption of this rule, an employee who chooses to use the pay differential option shall have his leave balance reccredited with a leave amount equal to the value of the pay differential the employee would have received had this rule been in effect on September 11, 2001.
- (h) A probationary or permanent employee, who was called to active duty for military purposes and who resigned from state service, may, at his request, and within 90 days of his release from active duty, have his resignation rescinded and become eligible for the benefits of subsection (g) of this rule.

#### 11.27 Leave of Absence Without Pay.

- (a) An appointing authority may extend leave of absence without pay to an employee, provided that such leave shall not prolong the period of the employee's appointment.
- (b) Abolished - effective October 2, 2000.
- (c) The appointing of a provisional employee who fails to return to duty in pay status on or before the first working day following the expiration date of any period of leave without pay extended him shall terminate as of the close of business on such expiration date.

20.64.2 (Rule 11.27 Leave of Absence Without Pay - continued)

- (d) The appointment of an employee who has not completed his probationary period and who fails to return to duty in pay status on or before the first working day following the expiration date of any period of leave without pay extended him shall terminate as of the close of business on such expiration date.
- (e) A permanent employee who has been extended leave of absence without pay under the provisions of Subsection (a) or (b), or both, hereof shall be restored to duty in pay status on or before the first working day following the expiration of such leave of absence. If the employee fails to report for or refuses to be restored to duty in pay status on the first working day following the expiration of his approved leave of absence without pay, or at an earlier date upon reasonable and proper notice from his appointing authority, he shall be considered as having deserted his position and shall be separated in accordance with the provisions of Chapter 12 of these Rules.
- (f) An appointing authority on its own initiative or at the request of the employee may curtail a period of leave of absence without pay extended to an employee, provided such curtailment is for the best interest of the State service and reasonable and proper notice thereof is furnished to the employee. Curtailment must not conflict with the provisions of Rule 11.26(b).
- (g) In addition to any disciplinary action which may be imposed against an employee for an unapproved absence, such employee may be placed on leave without pay by his appointing authority for the period of unapproved absence.

11.27.1 Leave Prohibited to Assume an Unclassified Position.

A probationary employee shall not be granted leave to serve in an unclassified position.

11.28 Holidays.

- (a) An employee, who is required by his appointing authority to work on his official holiday, shall be entitled to compensatory leave or overtime pay benefits as authorized in Chapter 21 of these Rules. \*\*\*
- (b) When a holiday falls on an employee's regular day off, and the appointing authority requires the employee to work on his designated holiday and the actual holiday, the appointing authority shall select only one of the two days as the employee's official holiday for overtime compensation as provided by the Rules contained in Chapter 21. The other day is to be compensated as regular overtime work. \*\*\*
- (c) Repealed, effective June 7, 1989.

11.29 Repealed and Re-enacted in Rules 21.4, 21.6, 21.7, 21.10 and 21.11, effective December 31, 2003. \*\*\*

11.30 Repealed, effective December 17, 1957.

11.31 Forms

The departments shall maintain uniform records on all types of leave on forms prescribed by the Director.

11.32 Repealed, effective December 17, 1957.

11.33 Repealed, effective December 17, 1957.

11.34 Crisis Leave Pool

Subject to the provisions of Rule 11.5(a), a department may establish a policy to implement and administer a pool of shared annual leave which may be used by employees who cannot work due to a crisis situation and who have insufficient appropriate paid leave to cover the absence needed for the crisis situation. An employee using leave from a crisis leave pool shall receive leave in sufficient quantity to ensure his wage replacement is 75% of the pay he would receive in a regularly scheduled workweek. A department's policy must have the approval of the Civil Service Commission prior to implementation. At minimum, policies must include the following conditions and elements:

1. Classified employees must have attained permanent status to be eligible to donate or use leave from the leave pool.
2. The department's policy shall establish a cap on the amount of annual leave which may be donated by an individual employee. No cap shall exceed 240 hours per employee per calendar year.
3. The department's policy shall establish a reasonable balance of annual leave that donors are required to retain after the leave donation.
4. The department's policy shall establish a cap on the amount of leave which may be used by an individual employee. The cap shall not exceed 240 hours during one calendar year.
5. The department's policy shall establish and clearly define eligibility criteria and the crisis situations which will be covered.

20.64.4 (11.34 Crisis Leave Pool – continued)

6. The department's policy shall define a procedure for administering the leave pool.
7. The department's policy shall establish a prohibition against the use of coercion or pressure to donate leave.
8. The department may establish other policy elements and conditions as deemed necessary. All additional elements and conditions shall be in compliance with Civil Service Rules.
9. A department's leave pool may be either: 1) a pool consisting of leave hours donated and used, or 2) a pool consisting of the dollar value of the leave donated and used.

## **Chapter 21**

### **Overtime and Overtime Compensation**

#### **21.1 Authority To Require Performance Of Overtime.**

An employee in the classified service may be required by his appointing authority to work overtime.

#### **21.2 Determination of exempt / non-exempt status of positions**

Agencies shall determine the exempt or non-exempt status of all positions, in accordance with the Fair Labor Standards Act (FLSA).

#### **21.3 Authority for compensation.**

- (a) All non-exempt employees shall be compensated for overtime in accordance with the FLSA for overtime conditions that are covered by the FLSA, and shall be compensated in accordance with Civil Service rules for State Overtime, which is defined in Rule 21.7.
- (b) All exempt employees shall be compensated in accordance with Civil Service rules for State Overtime, which is defined in Rule 21.7.

#### **21.4 Methods of compensation for overtime.**

- (a) Overtime compensation may be granted in the form of cash payment or compensatory leave earned; cash shall be paid when required under the FLSA or by these rules.
- (b) Employees who are employed on an intermittent schedule shall not earn compensatory leave, but shall be paid cash.

#### **21.5 Basis for the calculation of hourly rate of pay for overtime.**

- (a) The hourly rate of pay for State Overtime earned at the hour-for-hour rate shall be calculated using the employee's base pay plus base supplement.
- (b) The hourly rate of pay for State Overtime earned at the time and one-half rate may be calculated in accordance with the FLSA or in accordance with subsection (a) of this rule.
- (c) The hourly rate of pay for all FLSA overtime shall be calculated in accordance with the FLSA.

### **21.6 Compensatory Leave – Crediting and Usage.**

- (a) Compensatory leave credited to an employee may be used by the employee, with the approval of the appointing authority.
- (b) An employee who has been credited with compensatory leave may be required, by the appointing authority, to take all or part of such leave at any time.

### **21.7 Definition of State Overtime**

When an employee is not eligible for overtime under the provisions of the FLSA, State Overtime shall be granted as follows:

- (a) For purposes of calculating hours worked for STATE OVERTIME, a day off from work due to paid leave taken or a holiday observed is considered to be a day worked.
- (b) STATE OVERTIME is work performed by an employee at the direction of the appointing authority or his designee:
  - 1. In excess of the employee's regularly scheduled workday.
  - 2. In excess of the employee's regularly scheduled work period.
  - 3. On a holiday, including designated holidays
  - 4. During official closures

### **21.8 Compensation Rate – Non-Exempt Employees.**

- (a) All FLSA overtime shall be compensated at the time and one-half rate.
- (b) State Overtime shall be compensated at the straight (hour for hour) rate, unless an exception has been granted by the Commission, or unless the time and one-half rate is allowed under subsection (c) and (d) of this rule.
- (c) State Overtime performed during official closures due to emergency situations may be compensated at the time and one-half rate.
- (d) State Overtime performed on a holiday may be compensated at the time and one-half rate.

## **21.9 Compensation Rate – Exempt Employees.**

The appointing authority shall compensate exempt employees in accordance with one of the following options:

- (a) No overtime compensation
- (b) Compensation at the straight (hour for hour) rate
- (c) Overtime performed during official closures due to emergency situations may be compensated at the time and one-half rate.
- (d) Compensation at the time and one-half rate may be granted to exempt employees upon Commission approval.

## **21.10 Caps and Required Payment for Overtime Earned at the Time and One-half Rate**

- (a) Employees who accrue compensatory leave at the time and one-half rate shall accumulate no more of such compensatory leave than allowed under the Fair Labor Standards Act.
- (b) Once the maximum balance of compensatory leave earned at the time and one-half rate is reached, any additional overtime work in excess of the employee's established FLSA work period must be paid to a non-exempt employee in cash at the time and one-half rate.

## **21.11 Caps, Required Payment, and Cancellation of Overtime Earned at the Hour-for-Hour Rate**

- (a) Compensatory leave earned hour for hour may be accrued in excess of 360 hours, but not more than a total of 360 such hours shall be carried forward from one calendar year to the next. However, an appointing authority may request an exception to this subsection to maintain essential services necessary to preserve the life, health, or welfare of the public. This exception may ask that up to a total of 540 such hours be carried forward to the next calendar year. Such a request is subject to approval by the Commission.
- (b) For non-exempt employees whose hour-for-hour compensatory leave balance exceeds the cap required or granted by exception under subsection (a) of this rule, payment shall be made within 90 days after January 1 of each year for the excess compensatory leave. If payment is made, the employee's hourly rate of pay shall be calculated in accordance with Rule 21.5(a).

- (c) For exempt employees whose hour-for-hour compensatory leave balance exceeds the cap required or granted by exception under subsection (a) of this rule, payment may be made within 90 days after January 1 of each year for the excess compensatory leave. If payment is made, the employee's hourly rate of pay shall be calculated in accordance with Rule 21.5(a). Any excess leave not paid, shall be cancelled.

### **21.12 Payment or Cancellation of Compensatory Leave upon Separation or Transfer.**

#### **(a) Time and One-half Compensatory Leave**

Upon separation or transfer from a department, all compensatory leave earned at the time and one-half rate and credited to an employee shall be paid according to the method of calculation of hourly rate contained in the Fair Labor Standards Act, including those payments made under this rule to exempt employees.

#### **(b) Hour-for-Hour Compensatory Leave**

1. All unused compensatory leave earned hour for hour by exempt employees may be paid upon separation or transfer from the department in which he earned it at the final regular rate received by the employee, calculated in accordance with 21.5(a).
2. All unused compensatory leave earned hour for hour by exempt employees, if not paid to the employee upon separation or transfer, shall be cancelled upon separation or transfer from the department in which he earned it. Such leave shall not be reccredited to him upon his reemployment in that or any other department.
3. Upon separation or transfer, unused compensatory leave earned hour for hour by non-exempt employees shall be paid in accordance with the following schedule, at the final regular rate received by the employee, calculated in accordance with 21.5(a). All additional such unused leave may be paid or cancelled and shall not be reccredited to him upon his reemployment in that or any other department.

360 hours must be paid after January 1, 2003

450 hours must be paid after January 1, 2004

All hours must be paid after January 1, 2005



**21.13 Exceptions to the Overtime Rules.**

The Commission may grant exceptions to these rules.

**21.14 Director's Authority to Require Certain Positions to be Compensated as FLSA Non-exempt.**

Without regard to the agency-determined FLSA exempt or non-exempt status of positions, the Director may require one or more agencies to compensate identified positions as if they were non-exempt for the purposes of overtime compensation under the FLSA or these rules.